

AMENDED IN SENATE FEBRUARY 9, 2012

AMENDED IN SENATE AUGUST 15, 2011

AMENDED IN ASSEMBLY MAY 26, 2011

AMENDED IN ASSEMBLY MAY 11, 2011

AMENDED IN ASSEMBLY MARCH 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1280

**Introduced by Assembly Member Hill
(Coauthor: Assembly Member Hagman)**

February 18, 2011

An act to amend, repeal, and add Section 11100 of, and to add and repeal Section 11100.02 of, the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 1280, as amended, Hill. Ephedrine: retail sale.

(1) Existing law classifies controlled substances into 5 schedules, with the most restrictive limitations placed on controlled substances classified in Schedule I, and the least restrictive limitations placed on controlled substances classified in Schedule V. A controlled substance in any of the schedules may be possessed or dispensed only upon a lawful prescription, as specified. Existing law does not classify ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine within any of these 5 schedules, but provides that it is a crime, punishable as specified, for a person in this state who engages in specified transactions involving those drugs to fail to submit

a report to the Department of Justice of all of those transactions, or to fail to submit an application to, and obtain a permit for the conduct of that business from, the Department of Justice, as specified. Existing law prohibits the sale of more than 3 packages or 9 grams of a nonprescription product containing ephedrine or the other drugs, as specified.

This bill would instead provide that it is a misdemeanor, punishable as specified, for any retail distributor, except pursuant to a valid prescription from a licensed practitioner with prescriptive authority, to sell or distribute to a person specified amounts of nonprescription products containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine within specified time limits, to sell or distribute any of those substances to a person whose information has generated an alert, or, except under specified conditions, to sell or distribute to any purchaser a nonprescription product containing any amount of those substances. The bill would contain provisions requiring the secure storage and monitoring of products containing any amount of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine, as specified.

The bill would require retail distributors to transmit, on and after July 1, 2012 2013, sale information to the National Precursor Log Exchange (NPLEx) for purposes of determining whether the sale would violate these provisions. The bill would require the Department of Justice to enter into a memorandum of understanding with the National Association of Drug Diversion Investigators regarding the transaction records in NPLEx, as specified. The bill would provide that the information in the system may not be used for any purpose other than to meet the requirements of, or comply with, this act or a certain federal act, as specified. The bill would require that the system be available to the department and state law enforcement at no charge and would prohibit the Department of Justice or any other state agency from bearing any cost for the development, installation, or maintenance of the system. The bill would specify legislative findings and intent. The bill's provisions would remain in effect only until January 1, 2018. By creating a new crime, this bill would impose a state-mandated local program.

~~This bill would incorporate changes to Section 11100 of the Health and Safety Code made by AB 109, which has been chaptered but is not operative, to become operative only if AB 109 becomes operative.~~

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. ~~Section 11100 of the Health and Safety Code is~~
2 ~~amended to read:~~
3 ~~11100. (a) Any manufacturer, wholesaler, retailer, or other~~
4 ~~person or entity in this state that sells, transfers, or otherwise~~
5 ~~furnishes any of the following substances to any person or entity~~
6 ~~in this state or any other state shall submit a report to the~~
7 ~~Department of Justice of all of those transactions:~~
8 ~~(1) Phenyl-2-propanone.~~
9 ~~(2) Methylamine.~~
10 ~~(3) Ethylamine.~~
11 ~~(4) D-lysergic acid.~~
12 ~~(5) Ergotamine tartrate.~~
13 ~~(6) Diethyl malonate.~~
14 ~~(7) Malonic acid.~~
15 ~~(8) Ethyl malonate.~~
16 ~~(9) Barbituric acid.~~
17 ~~(10) Piperidine.~~
18 ~~(11) N-acetylanthranilic acid.~~
19 ~~(12) Pyrrolidine.~~
20 ~~(13) Phenylacetic acid.~~
21 ~~(14) Anthranilic acid.~~
22 ~~(15) Morpholine.~~
23 ~~(16) Ephedrine.~~
24 ~~(17) Pseudoephedrine.~~
25 ~~(18) Norpseudoephedrine.~~
26 ~~(19) Phenylpropanolamine.~~
27 ~~(20) Propionic anhydride.~~
28 ~~(21) Isosafrole.~~
29 ~~(22) Safrole.~~
30 ~~(23) Piperonal.~~

- 1 ~~(24) Thionylechloride.~~
- 2 ~~(25) Benzyl cyanide.~~
- 3 ~~(26) Ergonovine maleate.~~
- 4 ~~(27) N-methylephedrine.~~
- 5 ~~(28) N-ethylephedrine.~~
- 6 ~~(29) N-methylpseudoephedrine.~~
- 7 ~~(30) N-ethylpseudoephedrine.~~
- 8 ~~(31) Chloroephedrine.~~
- 9 ~~(32) Chloropseudoephedrine.~~
- 10 ~~(33) Hydriodic acid.~~
- 11 ~~(34) Gamma-butyrolactone, — including — butyrolactone;~~
12 ~~butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro;~~
13 ~~dihydro-2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide;~~
14 ~~1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone;~~
15 ~~3-hydroxybutyric acid lactone and 4-hydroxybutanoic acid lactone~~
16 ~~with Chemical Abstract Service number (96-48-0).~~
- 17 ~~(35) 1,4-butanediol, — including — butanediol; butane-1,4-diol;~~
18 ~~1,4-butylene glycol; butylene glycol; 1,4-dihydroxybutane;~~
19 ~~1,4-tetramethylene glycol; tetramethylene glycol; tetramethylene~~
20 ~~1,4-diol with Chemical Abstract Service number (110-63-4).~~
- 21 ~~(36) Red — phosphorus, — including — white — phosphorus;~~
22 ~~hypophosphorous acid and its salts, ammonium hypophosphite,~~
23 ~~calcium — hypophosphite, — iron — hypophosphite, — potassium~~
24 ~~hypophosphite, — manganese — hypophosphite, — magnesium~~
25 ~~hypophosphite, sodium hypophosphite, and phosphorous acid and~~
26 ~~its salts.~~
- 27 ~~(37) Iodine or tincture of iodine.~~
- 28 ~~(38) Any of the substances listed by the Department of Justice~~
29 ~~in regulations promulgated pursuant to subdivision (b).~~
- 30 ~~(b) The Department of Justice may adopt rules and regulations~~
31 ~~in accordance with Chapter 3.5 (commencing with Section 11340)~~
32 ~~of Part 1 of Division 3 of Title 2 of the Government Code that add~~
33 ~~substances to subdivision (a) if the substance is a precursor to a~~
34 ~~controlled substance and delete substances from subdivision (a).~~
35 ~~However, no regulation adding or deleting a substance shall have~~
36 ~~any effect beyond March 1 of the year following the calendar year~~
37 ~~during which the regulation was adopted.~~
- 38 ~~(c) (1) (A) Any manufacturer, wholesaler, retailer, or other~~
39 ~~person or entity in this state, prior to selling, transferring, or~~
40 ~~otherwise furnishing any substance specified in subdivision (a) to~~

1 any person or business entity in this state or any other state, shall
2 require (i) a letter of authorization from that person or business
3 entity that includes the currently valid business license number or
4 federal Drug Enforcement Administration (DEA) registration
5 number, the address of the business, and a full description of how
6 the substance is to be used, and (ii) proper identification from the
7 purchaser. The manufacturer, wholesaler, retailer, or other person
8 or entity in this state shall retain this information in a readily
9 available manner for three years. The requirement for a full
10 description of how the substance is to be used does not require the
11 person or business entity to reveal their chemical processes that
12 are typically considered trade secrets and proprietary information.

13 (B) For the purposes of this paragraph, "proper identification"
14 for in-state or out-of-state purchasers includes two or more of the
15 following: federal tax identification number; seller's permit
16 identification number; city or county business license number;
17 license issued by the State Department of Public Health;
18 registration number issued by the federal Drug Enforcement
19 Administration; precursor business permit number issued by the
20 Bureau of Narcotic Enforcement of the Department of Justice;
21 driver's license; or other identification issued by a state.

22 (2) (A) Any manufacturer, wholesaler, retailer, or other person
23 or entity in this state that exports a substance specified in
24 subdivision (a) to any person or business entity located in a foreign
25 country shall, on or before the date of exportation, submit to the
26 Department of Justice a notification of that transaction, which
27 notification shall include the name and quantity of the substance
28 to be exported and the name, address, and, if assigned by the
29 foreign country or subdivision thereof, business identification
30 number of the person or business entity located in a foreign country
31 importing the substance.

32 (B) The department may authorize the submission of the
33 notification on a monthly basis with respect to repeated, regular
34 transactions between an exporter and an importer involving a
35 substance specified in subdivision (a), if the department determines
36 that a pattern of regular supply of the substance exists between the
37 exporter and importer and that the importer has established a record
38 of utilization of the substance for lawful purposes.

39 (d) (1) Any manufacturer, wholesaler, retailer, or other person
40 or entity in this state that sells, transfers, or otherwise furnishes a

1 substance specified in subdivision (a) to a person or business entity
2 in this state or any other state shall, not less than 21 days prior to
3 delivery of the substance, submit a report of the transaction, which
4 includes the identification information specified in subdivision
5 (e), to the Department of Justice. The Department of Justice may
6 authorize the submission of the reports on a monthly basis with
7 respect to repeated, regular transactions between the furnisher and
8 the recipient involving the substance or substances if the
9 Department of Justice determines that a pattern of regular supply
10 of the substance or substances exists between the manufacturer,
11 wholesaler, retailer, or other person or entity that sells, transfers,
12 or otherwise furnishes the substance or substances and the recipient
13 of the substance or substances, and the recipient has established a
14 record of utilization of the substance or substances for lawful
15 purposes.

16 (2) The person selling, transferring, or otherwise furnishing any
17 substance specified in subdivision (a) shall affix his or her signature
18 or otherwise identify himself or herself as a witness to the
19 identification of the purchaser or purchasing individual, and shall,
20 if a common carrier is used, maintain a manifest of the delivery
21 to the purchaser for three years.

22 (e) This section shall not apply to any of the following:

23 (1) Any pharmacist or other authorized person who sells or
24 furnishes a substance upon the prescription of a physician, dentist,
25 podiatrist, or veterinarian.

26 (2) Any physician, dentist, podiatrist, or veterinarian who
27 administers or furnishes a substance to his or her patients.

28 (3) Any manufacturer or wholesaler licensed by the California
29 State Board of Pharmacy that sells, transfers, or otherwise furnishes
30 a substance to a licensed pharmacy, physician, dentist, podiatrist,
31 or veterinarian, or a retail distributor as defined in subdivision (h);
32 provided that the manufacturer or wholesaler submits records of
33 any suspicious sales or transfers as determined by the Department
34 of Justice.

35 (4) Any analytical research facility that is registered with the
36 federal Drug Enforcement Administration of the United States
37 Department of Justice.

38 (5) A state-licensed health care facility that administers or
39 furnishes a substance to its patients.

1 ~~(6) (A) Any sale, transfer, furnishing, or receipt of any product~~
2 ~~that contains ephedrine, pseudoephedrine, norpseudoephedrine,~~
3 ~~or phenylpropanolamine and which is lawfully sold, transferred,~~
4 ~~or furnished over the counter without a prescription pursuant to~~
5 ~~the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et~~
6 ~~seq.) or regulations adopted thereunder. However, this section~~
7 ~~shall apply to preparations in solid or liquid dosage form, except~~
8 ~~pediatric liquid forms, as defined, containing ephedrine,~~
9 ~~pseudoephedrine, norpseudoephedrine, or phenylpropanolamine~~
10 ~~where the individual transaction involves more than three packages~~
11 ~~or nine grams of ephedrine, pseudoephedrine, norpseudoephedrine,~~
12 ~~or phenylpropanolamine.~~

13 ~~(B) Any ephedrine, pseudoephedrine, norpseudoephedrine, or~~
14 ~~phenylpropanolamine product subsequently removed from~~
15 ~~exemption pursuant to Section 814 of Title 21 of the United States~~
16 ~~Code shall similarly no longer be exempt from any state reporting~~
17 ~~or permitting requirement, unless otherwise reinstated pursuant to~~
18 ~~Section 814(d) of Title 21 of the United States Code as an exempt~~
19 ~~product.~~

20 ~~(7) The sale, transfer, furnishing, or receipt of any betadine or~~
21 ~~povidone solution with an iodine content not exceeding 1 percent~~
22 ~~in containers of eight ounces or less, or any tincture of iodine not~~
23 ~~exceeding 2 percent in containers of one ounce or less, that is sold~~
24 ~~over the counter.—~~

25 ~~(8) Any transfer of a substance specified in subdivision (a) for~~
26 ~~purposes of lawful disposal as waste.~~

27 ~~(f) (1) Any person specified in subdivision (a) or (d) who does~~
28 ~~not submit a report as required by that subdivision or who~~
29 ~~knowingly submits a report with false or fictitious information~~
30 ~~shall be punished by imprisonment in a county jail not exceeding~~
31 ~~six months, by a fine not exceeding five thousand dollars (\$5,000),~~
32 ~~or by both the fine and imprisonment.~~

33 ~~(2) Any person specified in subdivision (a) or (d) who has~~
34 ~~previously been convicted of a violation of paragraph (1) shall,~~
35 ~~upon a subsequent conviction thereof, be punished by~~
36 ~~imprisonment in the state prison, or by imprisonment in a county~~
37 ~~jail not exceeding one year, by a fine not exceeding one hundred~~
38 ~~thousand dollars (\$100,000), or by both the fine and imprisonment.~~

39 ~~(g) (1) Except as otherwise provided in subparagraph (A) of~~
40 ~~paragraph (6) of subdivision (e), it is unlawful for any~~

1 manufacturer, wholesaler, retailer, or other person to sell, transfer,
2 or otherwise furnish a substance specified in subdivision (a) to a
3 person under 18 years of age.

4 ~~(2) Except as otherwise provided in subparagraph (A) of~~
5 ~~paragraph (6) of subdivision (c), it is unlawful for any person under~~
6 ~~18 years of age to possess a substance specified in subdivision (a).~~

7 ~~(3) (A) A first violation of this subdivision is a misdemeanor.~~

8 ~~(B) Any person who has previously been convicted of a violation~~
9 ~~of this subdivision shall, upon a subsequent conviction thereof, be~~
10 ~~punished by imprisonment in a county jail not exceeding one year,~~
11 ~~by a fine not exceeding ten thousand dollars (\$10,000), or by both~~
12 ~~the fine and imprisonment.~~

13 ~~(h) This section shall remain in effect only until January 1, 2018,~~
14 ~~and as of that date is repealed, unless a later enacted statute, that~~
15 ~~is enacted before January 1, 2018, deletes or extends that date.~~

16 ~~SEC. 1.5. Section 11100 of the Health and Safety Code, as~~
17 ~~amended by Section 145 of Chapter 15 of the Statutes of 2011, is~~
18 ~~amended to read:~~

19 ~~11100. (a) Any manufacturer, wholesaler, retailer, or other~~
20 ~~person or entity in this state that sells, transfers, or otherwise~~
21 ~~furnishes any of the following substances to any person or entity~~
22 ~~in this state or any other state shall submit a report to the~~
23 ~~Department of Justice of all of those transactions:~~

24 ~~(1) Phenyl-2-propanone.~~

25 ~~(2) Methylamine.~~

26 ~~(3) Ethylamine.~~

27 ~~(4) D-lysergic acid.~~

28 ~~(5) Ergotamine tartrate.~~

29 ~~(6) Diethyl malonate.~~

30 ~~(7) Malonic acid.~~

31 ~~(8) Ethyl malonate.~~

32 ~~(9) Barbituric acid.~~

33 ~~(10) Piperidine.~~

34 ~~(11) N-acetylanthranilic acid.~~

35 ~~(12) Pyrrolidine.~~

36 ~~(13) Phenylacetic acid.~~

37 ~~(14) Anthranilic acid.~~

38 ~~(15) Morpholine.~~

39 ~~(16) Ephedrine.~~

40 ~~(17) Pseudoephedrine.~~

- 1 ~~(18) Norpseudoephedrine.~~
- 2 ~~(19) Phenylpropanolamine.~~
- 3 ~~(20) Propionic anhydride.~~
- 4 ~~(21) Isosafrole.~~
- 5 ~~(22) Safrole.~~
- 6 ~~(23) Piperonal.~~
- 7 ~~(24) Thionylchloride.~~
- 8 ~~(25) Benzyl cyanide.~~
- 9 ~~(26) Ergonovine maleate.~~
- 10 ~~(27) N-methylephedrine.~~
- 11 ~~(28) N-ethylephedrine.~~
- 12 ~~(29) N-methylpseudoephedrine.~~
- 13 ~~(30) N-ethylpseudoephedrine.~~
- 14 ~~(31) Chloroephedrine.~~
- 15 ~~(32) Chloropseudoephedrine.~~
- 16 ~~(33) Hydriodic acid.~~
- 17 ~~(34) Gamma-butyrolactone, — including — butyrolactone;~~
18 ~~butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro;~~
19 ~~dihydro-2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide;~~
20 ~~1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone;~~
21 ~~3-hydroxybutyric acid lactone and 4-hydroxybutanoic acid lactone~~
22 ~~with Chemical Abstract Service number (96-48-0).~~
- 23 ~~(35) 1,4-butanediol, — including — butanediol; butane-1,4-diol;~~
24 ~~1,4-butylene glycol; butylene glycol; 1,4-dihydroxybutane;~~
25 ~~1,4-tetramethylene glycol; tetramethylene glycol; tetramethylene~~
26 ~~1,4-diol with Chemical Abstract Service number (110-63-4).~~
- 27 ~~(36) Red — phosphorus, — including — white — phosphorus;~~
28 ~~hypophosphorous acid and its salts, ammonium hypophosphite,~~
29 ~~calcium — hypophosphite, — iron — hypophosphite, — potassium~~
30 ~~hypophosphite, — manganese — hypophosphite, — magnesium~~
31 ~~hypophosphite, sodium hypophosphite, and phosphorous acid and~~
32 ~~its salts.~~
- 33 ~~(37) Iodine or tincture of iodine.~~
- 34 ~~(38) Any of the substances listed by the Department of Justice~~
35 ~~in regulations promulgated pursuant to subdivision (b).~~
- 36 ~~(b) The Department of Justice may adopt rules and regulations~~
37 ~~in accordance with Chapter 3.5 (commencing with Section 11340)~~
38 ~~of Part 1 of Division 3 of Title 2 of the Government Code that add~~
39 ~~substances to subdivision (a) if the substance is a precursor to a~~
40 ~~controlled substance and delete substances from subdivision (a).~~

1 However, no regulation adding or deleting a substance shall have
2 any effect beyond March 1 of the year following the calendar year
3 during which the regulation was adopted.

4 (e) (1) (A) Any manufacturer, wholesaler, retailer, or other
5 person or entity in this state, prior to selling, transferring, or
6 otherwise furnishing any substance specified in subdivision (a) to
7 any person or business entity in this state or any other state, shall
8 require (i) a letter of authorization from that person or business
9 entity that includes the currently valid business license number or
10 federal Drug Enforcement Administration (DEA) registration
11 number, the address of the business, and a full description of how
12 the substance is to be used, and (ii) proper identification from the
13 purchaser. The manufacturer, wholesaler, retailer, or other person
14 or entity in this state shall retain this information in a readily
15 available manner for three years. The requirement for a full
16 description of how the substance is to be used does not require the
17 person or business entity to reveal their chemical processes that
18 are typically considered trade secrets and proprietary information.

19 (B) For the purposes of this paragraph, “proper identification”
20 for in-state or out-of-state purchasers includes two or more of the
21 following: federal tax identification number; seller’s permit
22 identification number; city or county business license number;
23 license issued by the State Department of Public Health;
24 registration number issued by the federal Drug Enforcement
25 Administration; precursor business permit number issued by the
26 Bureau of Narcotic Enforcement of the Department of Justice;
27 driver’s license; or other identification issued by a state.

28 (2) (A) Any manufacturer, wholesaler, retailer, or other person
29 or entity in this state that exports a substance specified in
30 subdivision (a) to any person or business entity located in a foreign
31 country shall, on or before the date of exportation, submit to the
32 Department of Justice a notification of that transaction, which
33 notification shall include the name and quantity of the substance
34 to be exported and the name, address, and, if assigned by the
35 foreign country or subdivision thereof, business identification
36 number of the person or business entity located in a foreign country
37 importing the substance.

38 (B) The department may authorize the submission of the
39 notification on a monthly basis with respect to repeated, regular
40 transactions between an exporter and an importer involving a

1 substance specified in subdivision (a), if the department determines
2 that a pattern of regular supply of the substance exists between the
3 exporter and importer and that the importer has established a record
4 of utilization of the substance for lawful purposes.

5 (d) (1) Any manufacturer, wholesaler, retailer, or other person
6 or entity in this state that sells, transfers, or otherwise furnishes a
7 substance specified in subdivision (a) to a person or business entity
8 in this state or any other state shall, not less than 21 days prior to
9 delivery of the substance, submit a report of the transaction, which
10 includes the identification information specified in subdivision
11 (e), to the Department of Justice. The Department of Justice may
12 authorize the submission of the reports on a monthly basis with
13 respect to repeated, regular transactions between the furnisher and
14 the recipient involving the substance or substances if the
15 Department of Justice determines that a pattern of regular supply
16 of the substance or substances exists between the manufacturer,
17 wholesaler, retailer, or other person or entity that sells, transfers,
18 or otherwise furnishes the substance or substances and the recipient
19 of the substance or substances, and the recipient has established a
20 record of utilization of the substance or substances for lawful
21 purposes.

22 (2) The person selling, transferring, or otherwise furnishing any
23 substance specified in subdivision (a) shall affix his or her signature
24 or otherwise identify himself or herself as a witness to the
25 identification of the purchaser or purchasing individual, and shall,
26 if a common carrier is used, maintain a manifest of the delivery
27 to the purchaser for three years.

28 (e) This section shall not apply to any of the following:

29 (1) Any pharmacist or other authorized person who sells or
30 furnishes a substance upon the prescription of a physician, dentist,
31 podiatrist, or veterinarian.

32 (2) Any physician, dentist, podiatrist, or veterinarian who
33 administers or furnishes a substance to his or her patients.

34 (3) Any manufacturer or wholesaler licensed by the California
35 State Board of Pharmacy that sells, transfers, or otherwise furnishes
36 a substance to a licensed pharmacy, physician, dentist, podiatrist,
37 or veterinarian, or a retail distributor as defined in subdivision (h);
38 provided that the manufacturer or wholesaler submits records of
39 any suspicious sales or transfers as determined by the Department
40 of Justice.

~~(4) Any analytical research facility that is registered with the federal Drug Enforcement Administration of the United States Department of Justice.~~

~~(5) A state-licensed health care facility that administers or furnishes a substance to its patients.~~

~~(6) (A) Any sale, transfer, furnishing, or receipt of any product that contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine and which is lawfully sold, transferred, or furnished over the counter without a prescription pursuant to the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.) or regulations adopted thereunder. However, this section shall apply to preparations in solid or liquid dosage form, except pediatric liquid forms, as defined, containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine where the individual transaction involves more than three packages or nine grams of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine.~~

~~(B) Any ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine product subsequently removed from exemption pursuant to Section 814 of Title 21 of the United States Code shall similarly no longer be exempt from any state reporting or permitting requirement, unless otherwise reinstated pursuant to Section 814(d) of Title 21 of the United States Code as an exempt product.~~

~~(7) The sale, transfer, furnishing, or receipt of any betadine or povidone solution with an iodine content not exceeding 1 percent in containers of eight ounces or less, or any tincture of iodine not exceeding 2 percent in containers of one ounce or less, that is sold over the counter.~~

~~(8) Any transfer of a substance specified in subdivision (a) for purposes of lawful disposal as waste.~~

~~(f) (1) Any person specified in subdivision (a) or (d) who does not submit a report as required by that subdivision or who knowingly submits a report with false or fictitious information shall be punished by imprisonment in a county jail not exceeding six months, by a fine not exceeding five thousand dollars (\$5,000), or by both the fine and imprisonment.~~

~~(2) Any person specified in subdivision (a) or (d) who has previously been convicted of a violation of paragraph (1) shall, upon a subsequent conviction thereof, be punished by~~

1 imprisonment pursuant to subdivision (h) of Section 1170 of the
2 Penal Code, or by imprisonment in a county jail not exceeding one
3 year, by a fine not exceeding one hundred thousand dollars
4 (\$100,000), or by both the fine and imprisonment.

5 (g) (1) Except as otherwise provided in subparagraph (A) of
6 paragraph (6) of subdivision (e), it is unlawful for any
7 manufacturer, wholesaler, retailer, or other person to sell, transfer,
8 or otherwise furnish a substance specified in subdivision (a) to a
9 person under 18 years of age.

10 (2) Except as otherwise provided in subparagraph (A) of
11 paragraph (6) of subdivision (e), it is unlawful for any person under
12 18 years of age to possess a substance specified in subdivision (a).

13 (3) (A) A first violation of this subdivision is a misdemeanor.

14 (B) Any person who has previously been convicted of a violation
15 of this subdivision shall, upon a subsequent conviction thereof, be
16 punished by imprisonment in a county jail not exceeding one year,
17 by a fine not exceeding ten thousand dollars (\$10,000), or by both
18 the fine and imprisonment.

19 (h) This section shall remain in effect only until January 1, 2018,
20 and as of that date is repealed, unless a later enacted statute, that
21 is enacted before January 1, 2018, deletes or extends that date.

22 SEC. 2. Section 11100 is added to the Health and Safety Code,
23 to read:

24 11100. (a) Any manufacturer, wholesaler, retailer, or other
25 person or entity in this state that sells, transfers, or otherwise
26 furnishes any of the following substances to any person or entity
27 in this state or any other state shall submit a report to the
28 Department of Justice of all of those transactions:

29 (1) Phenyl-2-propanone.

30 (2) Methylamine.

31 (3) Ethylamine.

32 (4) D-lysergic acid.

33 (5) Ergotamine tartrate.

34 (6) Diethyl malonate.

35 (7) Malonic acid.

36 (8) Ethyl malonate.

37 (9) Barbituric acid.

38 (10) Piperidine.

39 (11) N-acetylanthranilic acid.

40 (12) Pyrrolidine.

- 1 ~~(13) Phenylacetic acid.~~
- 2 ~~(14) Anthranilic acid.~~
- 3 ~~(15) Morpholine.~~
- 4 ~~(16) Ephedrine.~~
- 5 ~~(17) Pseudoephedrine.~~
- 6 ~~(18) Norpseudoephedrine.~~
- 7 ~~(19) Phenylpropanolamine.~~
- 8 ~~(20) Propionic anhydride.~~
- 9 ~~(21) Isosafrole.~~
- 10 ~~(22) Safrole.~~
- 11 ~~(23) Piperonal.~~
- 12 ~~(24) Thionylchloride.~~
- 13 ~~(25) Benzyl cyanide.~~
- 14 ~~(26) Ergonovine maleate.~~
- 15 ~~(27) N-methylephedrine.~~
- 16 ~~(28) N-ethylephedrine.~~
- 17 ~~(29) N-methylpseudoephedrine.~~
- 18 ~~(30) N-ethylpseudoephedrine.~~
- 19 ~~(31) Chloroephedrine.~~
- 20 ~~(32) Chloropseudoephedrine.~~
- 21 ~~(33) Hydriodic acid.~~
- 22 ~~(34) Gamma-butyrolactone, — including — butyrolactone;~~
23 ~~butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro;~~
24 ~~dihydro-2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide;~~
25 ~~1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone;~~
26 ~~3-hydroxybutyric acid lactone and 4-hydroxybutanoic acid lactone~~
27 ~~with Chemical Abstract Service number (96-48-0).~~
- 28 ~~(35) 1,4-butanediol, — including — butanediol; butane-1,4-diol;~~
29 ~~1,4-butylene glycol; butylene glycol; 1,4-dihydroxybutane;~~
30 ~~1,4-tetramethylene glycol; tetramethylene glycol; tetramethylene~~
31 ~~1,4-diol with Chemical Abstract Service number (110-63-4).~~
- 32 ~~(36) Red — phosphorus, — including — white — phosphorus;~~
33 ~~hypophosphorous acid and its salts, ammonium hypophosphite;~~
34 ~~calcium — hypophosphite, — iron — hypophosphite, — potassium~~
35 ~~hypophosphite, — manganese — hypophosphite, — magnesium~~
36 ~~hypophosphite, sodium hypophosphite, and phosphorous acid and~~
37 ~~its salts.~~
- 38 ~~(37) Iodine or tincture of iodine.~~
- 39 ~~(38) Any of the substances listed by the Department of Justice~~
40 ~~in regulations promulgated pursuant to subdivision (b).~~

1 ~~(b) The Department of Justice may adopt rules and regulations~~
2 ~~in accordance with Chapter 3.5 (commencing with Section 11340)~~
3 ~~of Part 1 of Division 3 of Title 2 of the Government Code that add~~
4 ~~substances to subdivision (a) if the substance is a precursor to a~~
5 ~~controlled substance and delete substances from subdivision (a).~~
6 ~~However, no regulation adding or deleting a substance shall have~~
7 ~~any effect beyond March 1 of the year following the calendar year~~
8 ~~during which the regulation was adopted.~~

9 ~~(c) (1) (A) Any manufacturer, wholesaler, retailer, or other~~
10 ~~person or entity in this state, prior to selling, transferring, or~~
11 ~~otherwise furnishing any substance specified in subdivision (a) to~~
12 ~~any person or business entity in this state or any other state, shall~~
13 ~~require (i) a letter of authorization from that person or business~~
14 ~~entity that includes the currently valid business license number or~~
15 ~~federal Drug Enforcement Administration (DEA) registration~~
16 ~~number, the address of the business, and a full description of how~~
17 ~~the substance is to be used, and (ii) proper identification from the~~
18 ~~purchaser. The manufacturer, wholesaler, retailer, or other person~~
19 ~~or entity in this state shall retain this information in a readily~~
20 ~~available manner for three years. The requirement for a full~~
21 ~~description of how the substance is to be used does not require the~~
22 ~~person or business entity to reveal their chemical processes that~~
23 ~~are typically considered trade secrets and proprietary information.~~

24 ~~(B) For the purposes of this paragraph, "proper identification"~~
25 ~~for in-state or out-of-state purchasers includes two or more of the~~
26 ~~following: federal tax identification number; seller's permit~~
27 ~~identification number; city or county business license number;~~
28 ~~license issued by the State Department of Public Health;~~
29 ~~registration number issued by the federal Drug Enforcement~~
30 ~~Administration; precursor business permit number issued by the~~
31 ~~Bureau of Narcotic Enforcement of the Department of Justice;~~
32 ~~driver's license; or other identification issued by a state.~~

33 ~~(2) (A) Any manufacturer, wholesaler, retailer, or other person~~
34 ~~or entity in this state that exports a substance specified in~~
35 ~~subdivision (a) to any person or business entity located in a foreign~~
36 ~~country shall, on or before the date of exportation, submit to the~~
37 ~~Department of Justice a notification of that transaction, which~~
38 ~~notification shall include the name and quantity of the substance~~
39 ~~to be exported and the name, address, and, if assigned by the~~
40 ~~foreign country or subdivision thereof, business identification~~

1 number of the person or business entity located in a foreign country
2 importing the substance.

3 ~~(B) The department may authorize the submission of the~~
4 ~~notification on a monthly basis with respect to repeated, regular~~
5 ~~transactions between an exporter and an importer involving a~~
6 ~~substance specified in subdivision (a), if the department determines~~
7 ~~that a pattern of regular supply of the substance exists between the~~
8 ~~exporter and importer and that the importer has established a record~~
9 ~~of utilization of the substance for lawful purposes.~~

10 ~~(d) (1) Any manufacturer, wholesaler, retailer, or other person~~
11 ~~or entity in this state that sells, transfers, or otherwise furnishes a~~
12 ~~substance specified in subdivision (a) to a person or business entity~~
13 ~~in this state or any other state shall, not less than 21 days prior to~~
14 ~~delivery of the substance, submit a report of the transaction, which~~
15 ~~includes the identification information specified in subdivision~~
16 ~~(e), to the Department of Justice. The Department of Justice may~~
17 ~~authorize the submission of the reports on a monthly basis with~~
18 ~~respect to repeated, regular transactions between the furnisher and~~
19 ~~the recipient involving the substance or substances if the~~
20 ~~Department of Justice determines that a pattern of regular supply~~
21 ~~of the substance or substances exists between the manufacturer,~~
22 ~~wholesaler, retailer, or other person or entity that sells, transfers,~~
23 ~~or otherwise furnishes the substance or substances and the recipient~~
24 ~~of the substance or substances, and the recipient has established a~~
25 ~~record of utilization of the substance or substances for lawful~~
26 ~~purposes.~~

27 ~~(2) The person selling, transferring, or otherwise furnishing any~~
28 ~~substance specified in subdivision (a) shall affix his or her signature~~
29 ~~or otherwise identify himself or herself as a witness to the~~
30 ~~identification of the purchaser or purchasing individual, and shall,~~
31 ~~if a common carrier is used, maintain a manifest of the delivery~~
32 ~~to the purchaser for three years.~~

33 ~~(e) This section shall not apply to any of the following:~~

34 ~~(1) Any pharmacist or other authorized person who sells or~~
35 ~~furnishes a substance upon the prescription of a physician, dentist,~~
36 ~~podiatrist, or veterinarian.~~

37 ~~(2) Any physician, dentist, podiatrist, or veterinarian who~~
38 ~~administers or furnishes a substance to his or her patients.~~

39 ~~(3) Any manufacturer or wholesaler licensed by the California~~
40 ~~State Board of Pharmacy that sells, transfers, or otherwise furnishes~~

1 a substance to a licensed pharmacy, physician, dentist, podiatrist,
2 or veterinarian, or a retail distributor as defined in subdivision (h);
3 provided that the manufacturer or wholesaler submits records of
4 any suspicious sales or transfers as determined by the Department
5 of Justice.

6 ~~(4) Any analytical research facility that is registered with the~~
7 ~~federal Drug Enforcement Administration of the United States~~
8 ~~Department of Justice.~~

9 ~~(5) A state-licensed health care facility that administers or~~
10 ~~furnishes a substance to its patients.~~

11 ~~(6) (A) Any sale, transfer, furnishing, or receipt of any product~~
12 ~~that contains ephedrine, pseudoephedrine, norpseudoephedrine,~~
13 ~~or phenylpropanolamine and which is lawfully sold, transferred,~~
14 ~~or furnished over the counter without a prescription pursuant to~~
15 ~~the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et~~
16 ~~seq.) or regulations adopted thereunder. However, this section~~
17 ~~shall apply to preparations in solid or liquid dosage form, except~~
18 ~~pediatric liquid forms, as defined, containing ephedrine,~~
19 ~~pseudoephedrine, norpseudoephedrine, or phenylpropanolamine~~
20 ~~where the individual transaction involves more than three packages~~
21 ~~or nine grams of ephedrine, pseudoephedrine, norpseudoephedrine,~~
22 ~~or phenylpropanolamine.~~

23 ~~(B) Any ephedrine, pseudoephedrine, norpseudoephedrine, or~~
24 ~~phenylpropanolamine product subsequently removed from~~
25 ~~exemption pursuant to Section 814 of Title 21 of the United States~~
26 ~~Code shall similarly no longer be exempt from any state reporting~~
27 ~~or permitting requirement, unless otherwise reinstated pursuant to~~
28 ~~Section 814(d) of Title 21 of the United States Code as an exempt~~
29 ~~product.~~

30 ~~(7) The sale, transfer, furnishing, or receipt of any betadine or~~
31 ~~povidone solution with an iodine content not exceeding 1 percent~~
32 ~~in containers of eight ounces or less, or any tincture of iodine not~~
33 ~~exceeding 2 percent in containers of one ounce or less, that is sold~~
34 ~~over the counter.—~~

35 ~~(8) Any transfer of a substance specified in subdivision (a) for~~
36 ~~purposes of lawful disposal as waste.~~

37 ~~(f) (1) Any person specified in subdivision (a) or (d) who does~~
38 ~~not submit a report as required by that subdivision or who~~
39 ~~knowingly submits a report with false or fictitious information~~
40 ~~shall be punished by imprisonment in a county jail not exceeding~~

1 six months, by a fine not exceeding five thousand dollars (\$5,000),
2 or by both the fine and imprisonment.

3 ~~(2) Any person specified in subdivision (a) or (d) who has~~
4 ~~previously been convicted of a violation of paragraph (1) shall,~~
5 ~~upon a subsequent conviction thereof, be punished by~~
6 ~~imprisonment in the state prison, or by imprisonment in a county~~
7 ~~jail not exceeding one year, by a fine not exceeding one hundred~~
8 ~~thousand dollars (\$100,000), or by both the fine and imprisonment.~~

9 ~~(g) (1) Except as otherwise provided in subparagraph (A) of~~
10 ~~paragraph (6) of subdivision (e), it is unlawful for any~~
11 ~~manufacturer, wholesaler, retailer, or other person to sell, transfer,~~
12 ~~or otherwise furnish a substance specified in subdivision (a) to a~~
13 ~~person under 18 years of age.~~

14 ~~(2) Except as otherwise provided in subparagraph (A) of~~
15 ~~paragraph (6) of subdivision (e), it is unlawful for any person under~~
16 ~~18 years of age to possess a substance specified in subdivision (a).~~

17 ~~(3) Notwithstanding any other law, it is unlawful for any retail~~
18 ~~distributor to (A) sell in a single transaction more than three~~
19 ~~packages of a product that he or she knows to contain ephedrine,~~
20 ~~pseudoephedrine, norpseudoephedrine, or phenylpropanolamine,~~
21 ~~or (B) knowingly sell more than nine grams of ephedrine,~~
22 ~~pseudoephedrine, norpseudoephedrine, or phenylpropanolamine,~~
23 ~~other than pediatric liquids as defined. Except as otherwise~~
24 ~~provided in this section, the three package per transaction limitation~~
25 ~~or nine gram per transaction limitation imposed by this paragraph~~
26 ~~shall apply to any product that is lawfully sold, transferred, or~~
27 ~~furnished over the counter without a prescription pursuant to the~~
28 ~~Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et~~
29 ~~seq.), or regulations adopted thereunder, unless exempted from~~
30 ~~the requirements of the federal Controlled Substances Act (21~~
31 ~~U.S.C. Sec. 801 et seq.) by the federal Drug Enforcement~~
32 ~~Administration pursuant to Section 814 of Title 21 of the United~~
33 ~~States Code.~~

34 ~~(4) (A) A first violation of this subdivision is a misdemeanor.~~

35 ~~(B) Any person who has previously been convicted of a violation~~
36 ~~of this subdivision shall, upon a subsequent conviction thereof, be~~
37 ~~punished by imprisonment in a county jail not exceeding one year,~~
38 ~~by a fine not exceeding ten thousand dollars (\$10,000), or by both~~
39 ~~the fine and imprisonment.~~

(h) For the purposes of this article, the following terms have the following meanings:

(1) “Drug store” is any entity described in Code 5912 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(2) “General merchandise store” is any entity described in Codes 5311 to 5399, inclusive, and Code 5499 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(3) “Grocery store” is any entity described in Code 5411 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(4) “Pediatric liquid” means a nonencapsulated liquid whose unit measure according to product labeling is stated in milligrams, ounces, or other similar measure. In no instance shall the dosage units exceed 15 milligrams of phenylpropanolamine or pseudoephedrine per five milliliters of liquid product, except for liquid products primarily intended for administration to children under two years of age for which the recommended dosage unit does not exceed two milliliters and the total package content does not exceed one fluid ounce.

(5) “Retail distributor” means a grocery store, general merchandise store, drugstore, or other related entity, the activities of which, as a distributor of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine products, are limited exclusively to the sale of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine products for personal use both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales. “Retail distributor” includes an entity that makes a direct sale, but does not include the parent company of that entity if the company is not involved in direct sales regulated by this article.

(6) “Sale for personal use” means the sale in a single transaction to an individual customer for a legitimate medical use of a product containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine in dosages at or below that specified in paragraph (3) of subdivision (g). “Sale for personal use” also includes the sale of those products to employers to be dispensed to employees from first aid kits or medicine chests.

~~(i) It is the intent of the Legislature that this section shall preempt all local ordinances or regulations governing the sale by a retail distributor of over-the-counter products containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine.~~

~~(j) This section shall become operative on January 1, 2018.~~

SECTION 1. Section 11100 of the Health and Safety Code is amended to read:

11100. (a) Any manufacturer, wholesaler, retailer, or other person or entity in this state that sells, transfers, or otherwise furnishes any of the following substances to any person or entity in this state or any other state shall submit a report to the Department of Justice of all of those transactions:

- (1) Phenyl-2-propanone.
- (2) Methylamine.
- (3) Ethylamine.
- (4) D-lysergic acid.
- (5) Ergotamine tartrate.
- (6) Diethyl malonate.
- (7) Malonic acid.
- (8) Ethyl malonate.
- (9) Barbituric acid.
- (10) Piperidine.
- (11) N-acetylanthranilic acid.
- (12) Pyrrolidine.
- (13) Phenylacetic acid.
- (14) Anthranilic acid.
- (15) Morpholine.
- (16) Ephedrine.
- (17) Pseudoephedrine.
- (18) Norpseudoephedrine.
- (19) Phenylpropanolamine.
- (20) Propionic anhydride.
- (21) Isosafrole.
- (22) Safrole.
- (23) Piperonal.
- (24) Thionylchloride.
- (25) Benzyl cyanide.
- (26) Ergonovine maleate.
- (27) N-methylephedrine.

(28) N-ethylephedrine.

(29) N-methylpseudoephedrine.

(30) N-ethylpseudoephedrine.

(31) Chloroephedrine.

(32) Chloropseudoephedrine.

(33) Hydriodic acid.

(34) Gamma-butyrolactone, including butyrolactone; butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro; dihydro-2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide; 1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone; 3-hydroxybutyric acid lactone and 4-hydroxybutanoic acid lactone with Chemical Abstract Service number (96-48-0).

(35) 1,4-butanediol, including butanediol; butane-1,4-diol; 1,4-butylene glycol; butylene glycol; 1,4-dihydroxybutane; 1,4-tetramethylene glycol; tetramethylene glycol; tetramethylene 1,4-diol with Chemical Abstract Service number (110-63-4).

(36) Red phosphorus, including white phosphorus, hypophosphorous acid and its salts, ammonium hypophosphite, calcium hypophosphite, iron hypophosphite, potassium hypophosphite, manganese hypophosphite, magnesium hypophosphite, sodium hypophosphite, and phosphorous acid and its salts.

(37) Iodine or tincture of iodine.

(38) Any of the substances listed by the Department of Justice in regulations promulgated pursuant to subdivision (b).

(b) The Department of Justice may adopt rules and regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code that add substances to subdivision (a) if the substance is a precursor to a controlled substance and delete substances from subdivision (a). However, no regulation adding or deleting a substance shall have any effect beyond March 1 of the year following the calendar year during which the regulation was adopted.

(c) (1) (A) Any manufacturer, wholesaler, retailer, or other person or entity in this state, prior to selling, transferring, or otherwise furnishing any substance specified in subdivision (a) to any person or business entity in this state or any other state, shall require ~~(A)~~ (i) a letter of authorization from that person or business entity that includes the currently valid business license number or federal Drug Enforcement Administration (DEA) registration

1 number, the address of the business, and a full description of how
2 the substance is to be used, and ~~(B)~~ (ii) proper identification from
3 the purchaser. The manufacturer, wholesaler, retailer, or other
4 person or entity in this state shall retain this information in a readily
5 available manner for three years. The requirement for a full
6 description of how the substance is to be used does not require the
7 person or business entity to reveal their chemical processes that
8 are typically considered trade secrets and proprietary information.

9 (B) For the purposes of this paragraph, “proper identification”
10 for in-state or out-of-state purchasers includes two or more of the
11 following: federal tax identification number; seller’s permit
12 identification number; city or county business license number;
13 license issued by the ~~California State~~ Department of ~~Health~~
14 ~~Services~~ *Public Health*; registration number issued by the ~~Federal~~
15 *federal* Drug Enforcement Administration; precursor business
16 permit number issued by the Bureau of Narcotic Enforcement of
17 the ~~California~~ Department of Justice; driver’s license; or other
18 identification issued by a state.

19 (2) (A) Any manufacturer, wholesaler, retailer, or other person
20 or entity in this state that exports a substance specified in
21 subdivision (a) to any person or business entity located in a foreign
22 country shall, on or before the date of exportation, submit to the
23 Department of Justice a notification of that transaction, which
24 notification shall include the name and quantity of the substance
25 to be exported and the name, address, and, if assigned by the
26 foreign country or subdivision thereof, business identification
27 number of the person or business entity located in a foreign country
28 importing the substance.

29 (B) The department may authorize the submission of the
30 notification on a monthly basis with respect to repeated, regular
31 transactions between an exporter and an importer involving a
32 substance specified in subdivision (a), if the department determines
33 that a pattern of regular supply of the substance exists between the
34 exporter and importer and that the importer has established a record
35 of utilization of the substance for lawful purposes.

36 (d) (1) Any manufacturer, wholesaler, retailer, or other person
37 or entity in this state that sells, transfers, or otherwise furnishes a
38 substance specified in subdivision (a) to a person or business entity
39 in this state or any other state shall, not less than 21 days prior to
40 delivery of the substance, submit a report of the transaction, which

1 includes the identification information specified in subdivision
2 (c), to the Department of Justice. The Department of Justice may
3 authorize the submission of the reports on a monthly basis with
4 respect to repeated, regular transactions between the furnisher and
5 the recipient involving the substance or substances if the
6 Department of Justice determines that a pattern of regular supply
7 of the substance or substances exists between the manufacturer,
8 wholesaler, retailer, or other person or entity that sells, transfers,
9 or otherwise furnishes the substance or substances and the recipient
10 of the substance or substances, and the recipient has established a
11 record of utilization of the substance or substances for lawful
12 purposes.

13 (2) The person selling, transferring, or otherwise furnishing any
14 substance specified in subdivision (a) shall affix his or her signature
15 or otherwise identify himself or herself as a witness to the
16 identification of the purchaser or purchasing individual, and shall,
17 if a common carrier is used, maintain a manifest of the delivery
18 to the purchaser for three years.

19 (e) This section shall not apply to any of the following:

20 (1) Any pharmacist or other authorized person who sells or
21 furnishes a substance upon the prescription of a physician, dentist,
22 podiatrist, or veterinarian.

23 (2) Any physician, dentist, podiatrist, or veterinarian who
24 administers or furnishes a substance to his or her patients.

25 (3) Any manufacturer or wholesaler licensed by the California
26 State Board of Pharmacy that sells, transfers, or otherwise furnishes
27 a substance to a licensed pharmacy, physician, dentist, podiatrist,
28 or veterinarian, or a retail distributor as defined in subdivision (h),
29 provided that the manufacturer or wholesaler submits records of
30 any suspicious sales or transfers as determined by the Department
31 of Justice.

32 (4) Any analytical research facility that is registered with the
33 federal Drug Enforcement Administration of the United States
34 Department of Justice.

35 (5) A state-licensed health care facility that administers or
36 furnishes a substance to its patients.

37 (6) (A) Any sale, transfer, furnishing, or receipt of any product
38 that contains ephedrine, pseudoephedrine, norpseudoephedrine,
39 or phenylpropanolamine and which is lawfully sold, transferred,
40 or furnished over the counter without a prescription pursuant to

1 the ~~federal~~ *Federal* Food, Drug, and Cosmetic Act (21 U.S.C. Sec.
2 301 et seq.) or regulations adopted thereunder. However, this
3 section shall apply to preparations in solid or liquid dosage form,
4 except pediatric liquid forms, as defined, containing ephedrine,
5 pseudoephedrine, norpseudoephedrine, or phenylpropanolamine
6 where the individual transaction involves more than three packages
7 or nine grams of ephedrine, pseudoephedrine, norpseudoephedrine,
8 or phenylpropanolamine.

9 (B) Any ephedrine, pseudoephedrine, norpseudoephedrine, or
10 phenylpropanolamine product subsequently removed from
11 exemption pursuant to Section 814 of Title 21 of the United States
12 Code shall similarly no longer be exempt from any state reporting
13 or permitting requirement, unless otherwise reinstated pursuant to
14 ~~subdivision (d) or (e) of Section 814~~ 814(d) of Title 21 of the
15 United States Code as an exempt product.

16 (7) The sale, transfer, furnishing, or receipt of any betadine or
17 povidone solution with an iodine content not exceeding 1 percent
18 in containers of eight ounces or less, or any tincture of iodine not
19 exceeding 2 percent in containers of one ounce or less, that is sold
20 over the counter.

21 (8) Any transfer of a substance specified in subdivision (a) for
22 purposes of lawful disposal as waste.

23 (f) (1) Any person specified in subdivision (a) or (d) who does
24 not submit a report as required by that subdivision or who
25 knowingly submits a report with false or fictitious information
26 shall be punished by imprisonment in a county jail not exceeding
27 six months, by a fine not exceeding five thousand dollars (\$5,000),
28 or by both the fine and imprisonment.

29 (2) Any person specified in subdivision (a) or (d) who has
30 previously been convicted of a violation of paragraph (1) shall,
31 upon a subsequent conviction thereof, be punished by
32 imprisonment pursuant to subdivision (h) of Section 1170 of the
33 Penal Code, or by imprisonment in a county jail not exceeding one
34 year, by a fine not exceeding one hundred thousand dollars
35 (\$100,000), or by both the fine and imprisonment.

36 (g) (1) Except as otherwise provided in subparagraph (A) of
37 paragraph (6) of subdivision (e), it is unlawful for any
38 manufacturer, wholesaler, retailer, or other person to sell, transfer,
39 or otherwise furnish a substance specified in subdivision (a) to a
40 person under 18 years of age.

(2) Except as otherwise provided in subparagraph (A) of paragraph (6) of subdivision (e), it is unlawful for any person under 18 years of age to possess a substance specified in subdivision (a).

~~(3) Notwithstanding any other law, it is unlawful for any retail distributor to (i) sell in a single transaction more than three packages of a product that he or she knows to contain ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine; or (ii) knowingly sell more than nine grams of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine; other than pediatric liquids as defined. Except as otherwise provided in this section, the three package per transaction limitation or nine gram per transaction limitation imposed by this paragraph shall apply to any product that is lawfully sold, transferred, or furnished over the counter without a prescription pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.); or regulations adopted thereunder, unless exempted from the requirements of the federal Controlled Substances Act by the federal Drug Enforcement Administration pursuant to Section 814 of Title 21 of the United States Code.~~

~~(4)~~

~~(3) (A) A first violation of this subdivision is a misdemeanor.~~

~~(B) Any person who has previously been convicted of a violation of this subdivision shall, upon a subsequent conviction thereof, be punished by imprisonment in a county jail not exceeding one year, by a fine not exceeding ten thousand dollars (\$10,000), or by both the fine and imprisonment.~~

~~(h) For the purposes of this article, the following terms have the following meanings:~~

~~(1) "Drug store" is any entity described in Code 5912 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.~~

~~(2) "General merchandise store" is any entity described in Codes 5311 to 5399, inclusive, and Code 5499 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.~~

~~(3) "Grocery store" is any entity described in Code 5411 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.~~

~~(4) "Pediatric liquid" means a nonencapsulated liquid whose unit measure according to product labeling is stated in milligrams,~~

1 ounces, or other similar measure. In no instance shall the dosage
2 units exceed 15 milligrams of phenylpropanolamine or
3 pseudoephedrine per five milliliters of liquid product, except for
4 liquid products primarily intended for administration to children
5 under two years of age for which the recommended dosage unit
6 does not exceed two milliliters and the total package content does
7 not exceed one fluid ounce.

8 (5) “Retail distributor” means a grocery store, general
9 merchandise store, drugstore, or other related entity, the activities
10 of which, as a distributor of ephedrine, pseudoephedrine,
11 norpseudoephedrine, or phenylpropanolamine products, are limited
12 exclusively to the sale of ephedrine, pseudoephedrine,
13 norpseudoephedrine, or phenylpropanolamine products for personal
14 use both in number of sales and volume of sales, either directly to
15 walk-in customers or in face-to-face transactions by direct sales.
16 “Retail distributor” includes an entity that makes a direct sale, but
17 does not include the parent company of that entity if the company
18 is not involved in direct sales regulated by this article.

19 (6) “Sale for personal use” means the sale in a single transaction
20 to an individual customer for a legitimate medical use of a product
21 containing ephedrine, pseudoephedrine, norpseudoephedrine, or
22 phenylpropanolamine in dosages at or below that specified in
23 paragraph (3) of subdivision (g). “Sale for personal use” also
24 includes the sale of those products to employers to be dispensed
25 to employees from first-aid kits or medicine chests.

26 (i) It is the intent of the Legislature that this section shall
27 preempt all local ordinances or regulations governing the sale by
28 a retail distributor of over-the-counter products containing
29 ephedrine, pseudoephedrine, norpseudoephedrine, or
30 phenylpropanolamine.

31 (h) *This section shall remain in effect only until January 1, 2018,*
32 *and as of that date is repealed, unless a later enacted statute, that*
33 *is enacted before January 1, 2018, deletes or extends that date.*

34 ~~SEC. 2.5.~~

35 SEC. 2. Section 11100 is added to the Health and Safety Code,
36 to read:

37 11100. (a) Any manufacturer, wholesaler, retailer, or other
38 person or entity in this state that sells, transfers, or otherwise
39 furnishes any of the following substances to any person or entity

1 in this state or any other state shall submit a report to the
2 Department of Justice of all of those transactions:

- 3 (1) Phenyl-2-propanone.
- 4 (2) Methylamine.
- 5 (3) Ethylamine.
- 6 (4) D-lysergic acid.
- 7 (5) Ergotamine tartrate.
- 8 (6) Diethyl malonate.
- 9 (7) Malonic acid.
- 10 (8) Ethyl malonate.
- 11 (9) Barbituric acid.
- 12 (10) Piperidine.
- 13 (11) N-acetylanthranilic acid.
- 14 (12) Pyrrolidine.
- 15 (13) Phenylacetic acid.
- 16 (14) Anthranilic acid.
- 17 (15) Morpholine.
- 18 (16) Ephedrine.
- 19 (17) Pseudoephedrine.
- 20 (18) Norpseudoephedrine.
- 21 (19) Phenylpropanolamine.
- 22 (20) Propionic anhydride.
- 23 (21) Isosafrole.
- 24 (22) Safrole.
- 25 (23) Piperonal.
- 26 (24) Thionylchloride.
- 27 (25) Benzyl cyanide.
- 28 (26) Ergonovine maleate.
- 29 (27) N-methylephedrine.
- 30 (28) N-ethylephedrine.
- 31 (29) N-methylpseudoephedrine.
- 32 (30) N-ethylpseudoephedrine.
- 33 (31) Chloroephedrine.
- 34 (32) Chloropseudoephedrine.
- 35 (33) Hydriodic acid.
- 36 (34) Gamma-butyrolactone, including butyrolactone;
37 butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro;
38 dihydro-2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide;
39 1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone;

1 3-hydroxybutyric acid lactone and 4-hydroxybutanoic acid lactone
2 with Chemical Abstract Service number (96-48-0).

3 (35) 1,4-butanediol, including butanediol; butane-1,4-diol;
4 1,4-butylene glycol; butylene glycol; 1,4-dihydroxybutane;
5 1,4-tetramethylene glycol; tetramethylene glycol; tetramethylene
6 1,4-diol with Chemical Abstract Service number (110-63-4).

7 (36) Red phosphorus, including white phosphorus,
8 hypophosphorous acid and its salts, ammonium hypophosphite,
9 calcium hypophosphite, iron hypophosphite, potassium
10 hypophosphite, manganese hypophosphite, magnesium
11 hypophosphite, sodium hypophosphite, and phosphorous acid and
12 its salts.

13 (37) Iodine or tincture of iodine.

14 (38) Any of the substances listed by the Department of Justice
15 in regulations promulgated pursuant to subdivision (b).

16 (b) The Department of Justice may adopt rules and regulations
17 in accordance with Chapter 3.5 (commencing with Section 11340)
18 of Part 1 of Division 3 of Title 2 of the Government Code that add
19 substances to subdivision (a) if the substance is a precursor to a
20 controlled substance and delete substances from subdivision (a).
21 However, no regulation adding or deleting a substance shall have
22 any effect beyond March 1 of the year following the calendar year
23 during which the regulation was adopted.

24 (c) (1) (A) Any manufacturer, wholesaler, retailer, or other
25 person or entity in this state, prior to selling, transferring, or
26 otherwise furnishing any substance specified in subdivision (a) to
27 any person or business entity in this state or any other state, shall
28 require (i) a letter of authorization from that person or business
29 entity that includes the currently valid business license number or
30 federal Drug Enforcement Administration (DEA) registration
31 number, the address of the business, and a full description of how
32 the substance is to be used, and (ii) proper identification from the
33 purchaser. The manufacturer, wholesaler, retailer, or other person
34 or entity in this state shall retain this information in a readily
35 available manner for three years. The requirement for a full
36 description of how the substance is to be used does not require the
37 person or business entity to reveal their chemical processes that
38 are typically considered trade secrets and proprietary information.

39 (B) For the purposes of this paragraph, "proper identification"
40 for in-state or out-of-state purchasers includes two or more of the

1 following: federal tax identification number; seller's permit
2 identification number; city or county business license number;
3 license issued by the State Department of Public Health;
4 registration number issued by the federal Drug Enforcement
5 Administration; precursor business permit number issued by the
6 Bureau of Narcotic Enforcement of the Department of Justice;
7 driver's license; or other identification issued by a state.

8 (2) (A) Any manufacturer, wholesaler, retailer, or other person
9 or entity in this state that exports a substance specified in
10 subdivision (a) to any person or business entity located in a foreign
11 country shall, on or before the date of exportation, submit to the
12 Department of Justice a notification of that transaction, which
13 notification shall include the name and quantity of the substance
14 to be exported and the name, address, and, if assigned by the
15 foreign country or subdivision thereof, business identification
16 number of the person or business entity located in a foreign country
17 importing the substance.

18 (B) The department may authorize the submission of the
19 notification on a monthly basis with respect to repeated, regular
20 transactions between an exporter and an importer involving a
21 substance specified in subdivision (a), if the department determines
22 that a pattern of regular supply of the substance exists between the
23 exporter and importer and that the importer has established a record
24 of utilization of the substance for lawful purposes.

25 (d) (1) Any manufacturer, wholesaler, retailer, or other person
26 or entity in this state that sells, transfers, or otherwise furnishes a
27 substance specified in subdivision (a) to a person or business entity
28 in this state or any other state shall, not less than 21 days prior to
29 delivery of the substance, submit a report of the transaction, which
30 includes the identification information specified in subdivision
31 (c), to the Department of Justice. The Department of Justice may
32 authorize the submission of the reports on a monthly basis with
33 respect to repeated, regular transactions between the furnisher and
34 the recipient involving the substance or substances if the
35 Department of Justice determines that a pattern of regular supply
36 of the substance or substances exists between the manufacturer,
37 wholesaler, retailer, or other person or entity that sells, transfers,
38 or otherwise furnishes the substance or substances and the recipient
39 of the substance or substances, and the recipient has established a

1 record of utilization of the substance or substances for lawful
2 purposes.

3 (2) The person selling, transferring, or otherwise furnishing any
4 substance specified in subdivision (a) shall affix his or her signature
5 or otherwise identify himself or herself as a witness to the
6 identification of the purchaser or purchasing individual, and shall,
7 if a common carrier is used, maintain a manifest of the delivery
8 to the purchaser for three years.

9 (e) This section shall not apply to any of the following:

10 (1) Any pharmacist or other authorized person who sells or
11 furnishes a substance upon the prescription of a physician, dentist,
12 podiatrist, or veterinarian.

13 (2) Any physician, dentist, podiatrist, or veterinarian who
14 administers or furnishes a substance to his or her patients.

15 (3) Any manufacturer or wholesaler licensed by the California
16 State Board of Pharmacy that sells, transfers, or otherwise furnishes
17 a substance to a licensed pharmacy, physician, dentist, podiatrist,
18 or veterinarian, or a retail distributor as defined in subdivision (h),
19 provided that the manufacturer or wholesaler submits records of
20 any suspicious sales or transfers as determined by the Department
21 of Justice.

22 (4) Any analytical research facility that is registered with the
23 federal Drug Enforcement Administration of the United States
24 Department of Justice.

25 (5) A state-licensed health care facility that administers or
26 furnishes a substance to its patients.

27 (6) (A) Any sale, transfer, furnishing, or receipt of any product
28 that contains ephedrine, pseudoephedrine, norpseudoephedrine,
29 or phenylpropanolamine and which is lawfully sold, transferred,
30 or furnished over the counter without a prescription pursuant to
31 the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et
32 seq.) or regulations adopted thereunder. However, this section
33 shall apply to preparations in solid or liquid dosage form, except
34 pediatric liquid forms, as defined, containing ephedrine,
35 pseudoephedrine, norpseudoephedrine, or phenylpropanolamine
36 where the individual transaction involves more than three packages
37 or nine grams of ephedrine, pseudoephedrine, norpseudoephedrine,
38 or phenylpropanolamine.

39 (B) Any ephedrine, pseudoephedrine, norpseudoephedrine, or
40 phenylpropanolamine product subsequently removed from

1 exemption pursuant to Section 814 of Title 21 of the United States
2 Code shall similarly no longer be exempt from any state reporting
3 or permitting requirement, unless otherwise reinstated pursuant to
4 Section 814(d) of Title 21 of the United States Code as an exempt
5 product.

6 (7) The sale, transfer, furnishing, or receipt of any betadine or
7 povidone solution with an iodine content not exceeding 1 percent
8 in containers of eight ounces or less, or any tincture of iodine not
9 exceeding 2 percent in containers of one ounce or less, that is sold
10 over the counter.

11 (8) Any transfer of a substance specified in subdivision (a) for
12 purposes of lawful disposal as waste.

13 (f) (1) Any person specified in subdivision (a) or (d) who does
14 not submit a report as required by that subdivision or who
15 knowingly submits a report with false or fictitious information
16 shall be punished by imprisonment in a county jail not exceeding
17 six months, by a fine not exceeding five thousand dollars (\$5,000),
18 or by both the fine and imprisonment.

19 (2) Any person specified in subdivision (a) or (d) who has
20 previously been convicted of a violation of paragraph (1) shall,
21 upon a subsequent conviction thereof, be punished by
22 imprisonment pursuant to subdivision (h) of Section 1170 of the
23 Penal Code, or by imprisonment in a county jail not exceeding one
24 year, by a fine not exceeding one hundred thousand dollars
25 (\$100,000), or by both the fine and imprisonment.

26 (g) (1) Except as otherwise provided in subparagraph (A) of
27 paragraph (6) of subdivision (e), it is unlawful for any
28 manufacturer, wholesaler, retailer, or other person to sell, transfer,
29 or otherwise furnish a substance specified in subdivision (a) to a
30 person under 18 years of age.

31 (2) Except as otherwise provided in subparagraph (A) of
32 paragraph (6) of subdivision (e), it is unlawful for any person under
33 18 years of age to possess a substance specified in subdivision (a).

34 (3) Notwithstanding any other law, it is unlawful for any retail
35 distributor to (A) sell in a single transaction more than three
36 packages of a product that he or she knows to contain ephedrine,
37 pseudoephedrine, norpseudoephedrine, or phenylpropanolamine,
38 or (B) knowingly sell more than nine grams of ephedrine,
39 pseudoephedrine, norpseudoephedrine, or phenylpropanolamine,
40 other than pediatric liquids as defined. Except as otherwise

provided in this section, the three package per transaction limitation or nine gram per transaction limitation imposed by this paragraph shall apply to any product that is lawfully sold, transferred, or furnished over the counter without a prescription pursuant to the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.), or regulations adopted thereunder, unless exempted from the requirements of the federal Controlled Substances Act (21 U.S.C. Sec. 801 et seq.) by the federal Drug Enforcement Administration pursuant to Section 814 of Title 21 of the United States Code.

(4) (A) A first violation of this subdivision is a misdemeanor.

(B) Any person who has previously been convicted of a violation of this subdivision shall, upon a subsequent conviction thereof, be punished by imprisonment in a county jail not exceeding one year, by a fine not exceeding ten thousand dollars (\$10,000), or by both the fine and imprisonment.

(h) For the purposes of this article, the following terms have the following meanings:

(1) “Drug store” is any entity described in Code 5912 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(2) “General merchandise store” is any entity described in Codes 5311 to 5399, inclusive, and Code 5499 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(3) “Grocery store” is any entity described in Code 5411 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(4) “Pediatric liquid” means a nonencapsulated liquid whose unit measure according to product labeling is stated in milligrams, ounces, or other similar measure. In no instance shall the dosage units exceed 15 milligrams of phenylpropanolamine or pseudoephedrine per five milliliters of liquid product, except for liquid products primarily intended for administration to children under two years of age for which the recommended dosage unit does not exceed two milliliters and the total package content does not exceed one fluid ounce.

(5) “Retail distributor” means a grocery store, general merchandise store, drugstore, or other related entity, the activities of which, as a distributor of ephedrine, pseudoephedrine,

1 norpseudoephedrine, or phenylpropanolamine products, are limited
2 exclusively to the sale of ephedrine, pseudoephedrine,
3 norpseudoephedrine, or phenylpropanolamine products for personal
4 use both in number of sales and volume of sales, either directly to
5 walk-in customers or in face-to-face transactions by direct sales.
6 “Retail distributor” includes an entity that makes a direct sale, but
7 does not include the parent company of that entity if the company
8 is not involved in direct sales regulated by this article.

9 (6) “Sale for personal use” means the sale in a single transaction
10 to an individual customer for a legitimate medical use of a product
11 containing ephedrine, pseudoephedrine, norpseudoephedrine, or
12 phenylpropanolamine in dosages at or below that specified in
13 paragraph (3) of subdivision (g). “Sale for personal use” also
14 includes the sale of those products to employers to be dispensed
15 to employees from first aid kits or medicine chests.

16 (i) It is the intent of the Legislature that this section shall
17 preempt all local ordinances or regulations governing the sale by
18 a retail distributor of over-the-counter products containing
19 ephedrine, pseudoephedrine, norpseudoephedrine, or
20 phenylpropanolamine.

21 (j) This section shall become operative on January 1, 2018.

22 SEC. 3. Section 11100.02 is added to the Health and Safety
23 Code, to read:

24 11100.02. (a) Notwithstanding any other law, it is unlawful
25 for any retail distributor to knowingly do the following, except
26 pursuant to a valid prescription from a licensed practitioner with
27 prescriptive authority:

28 (1) To sell or distribute to the same purchaser within any 30-day
29 period more than nine grams, or within any day more than 3.6
30 grams, of ephedrine base, pseudoephedrine base,
31 norpseudoephedrine base, or phenylpropanolamine base contained
32 in any product that is lawfully sold, transferred, or furnished over
33 the counter without a prescription pursuant to the Federal Food,
34 Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.), or regulations
35 adopted thereunder, unless exempted from the requirements of the
36 federal Controlled Substances Act (21 U.S.C. Sec. 801 et seq.) by
37 the federal Drug Enforcement Administration pursuant to Section
38 814 of Title 21 of the United States Code.

39 (2) To sell or distribute any ephedrine, pseudoephedrine,
40 norpseudoephedrine, or phenylpropanolamine to a person whose

1 information has generated an alert as described in paragraph (3)
2 of subdivision (d) regarding that sale.

3 (3) To sell or distribute to any purchaser a nonprescription
4 product containing any amount of ephedrine, pseudoephedrine,
5 norpseudoephedrine, or phenylpropanolamine, except under the
6 following conditions:

7 (A) The purchaser shall produce valid government-issued photo
8 identification.

9 (B) The purchaser shall sign a written or electronic log showing
10 the following:

11 (i) The date and time of the transaction.

12 (ii) The identification number presented.

13 (iii) The agency issuing the identification and the type of
14 identification issued.

15 (iv) The name, date of birth, and address of the purchaser.

16 (v) The amount of ephedrine base, pseudoephedrine base,
17 norpseudoephedrine base, or phenylpropanolamine base contained
18 in the material, compound, mixture, or preparation sold.

19 (b) The retail distributor shall store any product containing any
20 amount of ephedrine, pseudoephedrine, norpseudoephedrine, or
21 phenylpropanolamine either behind the counter or in a locked
22 cabinet so that the customer does not have access to the product.

23 (c) (1) To facilitate the monitoring of the sales of
24 nonprescription products containing ephedrine, pseudoephedrine,
25 norpseudoephedrine, or phenylpropanolamine, the retail distributor
26 shall record all of the following information at the point of sale
27 regarding the proposed transaction for the purpose of complying
28 with this section or the federal Combat Methamphetamine
29 Epidemic Act of 2005, or any regulation adopted pursuant to this
30 section or that act, and for no other purpose:

31 (A) The date and time of the transaction.

32 (B) The identification number of the purchaser, issuing agency
33 of the identification, and the type of identification used.

34 (C) The name, date of birth, and address of the purchaser
35 verified through a photo identification of the purchaser.

36 (D) The name, quantity of packages, and total gram weight of
37 ephedrine base, pseudoephedrine base, norpseudoephedrine base,
38 or phenylpropanolamine base contained in a product or products
39 purchased, received, or otherwise acquired.

40 (E) The name or initials of the person making the sale.

1 (2) On and after July 1, ~~2012~~ 2013, the retail distributor shall
2 transmit the information immediately to the National Precursor
3 Log Exchange (NPLEx) administered by the National Association
4 of Drug Diversion Investigators (NADDI) for purposes of
5 determining whether the proposed sale would violate this section
6 and therefore may not proceed, provided that the NPLEx system
7 is available to retailers in the state without a charge for accessing
8 the system. The transaction information shall not be accessed,
9 stored, or used by the retail distributor *or law enforcement* for any
10 purpose other than to meet the requirements set forth in this section
11 or to comply with the provisions of the federal Combat
12 Methamphetamine Epidemic Act of 2005, or any regulation
13 adopted pursuant to this section or that act. The retail distributor
14 shall not maintain a separate copy of the transaction information
15 *and shall not have direct access to individual information or sales*
16 *records entered into the NPLEx system*, except as required by the
17 federal Combat Methamphetamine Epidemic Act of 2005.

18 (3) (A) A retail distributor shall provide notice electronically,
19 in writing, or by signage to purchasers *at the time of purchase* that
20 the information collected pursuant to the federal Combat
21 Methamphetamine Epidemic Act of 2005 and this section shall be
22 *entered into a single database as specified in paragraph (2) and*
23 *provided to law enforcement for purposes of determining the*
24 *legality of a proposed sale.*

25 (B) The Legislature finds that it is necessary for probable cause
26 to be demonstrated to trigger an investigation in connection with
27 an individual whose requested purchase is denied by the system a
28 single time.

29 (4) This subdivision shall not be construed to require a retail
30 distributor to maintain state-required records relating to the sale
31 of products containing ephedrine, pseudoephedrine,
32 norpseudoephedrine, or phenylpropanolamine in a separate location
33 or log from records required by federal law to be kept with respect
34 to those products.

35 (5) The recording requirements specified in this subdivision
36 shall not apply to the sale of a single package containing not more
37 than 60 milligrams of pseudoephedrine, consistent with the federal
38 Combat Methamphetamine Epidemic Act of 2005.

39 (6) If a retail distributor experiences mechanical or electronic
40 failure of the system and is unable to comply with the recording

1 requirements of this subdivision, the retail distributor shall maintain
2 the required records in a written log or an alternative electronic
3 recordkeeping mechanism until the retail distributor is able to
4 comply with the recording requirements of this subdivision. *Written*
5 *logs shall be maintained only for the purpose of compliance with*
6 *this subdivision.*

7 (d) (1) Provided that the department executes a memorandum
8 of understanding (MOU) with NADDI governing access, pursuant
9 to this subdivision, NADDI shall forward California transaction
10 records in NPLeX to the Department of Justice weekly and provide
11 real-time access to NPLeX information through the NPLeX online
12 portal to law enforcement in the state as authorized by the
13 department. *The MOU shall constitute an enforceable contract.*

14 (2) Access to the system shall be available at no charge to the
15 department and law enforcement in this state as authorized pursuant
16 to paragraph (1).

17 (3) The system shall allow retail distributors of products
18 containing ephedrine, pseudoephedrine, norpseudoephedrine, or
19 phenylpropanolamine to enter into the database the information
20 specified in subdivision (c) regarding the proposed sale of those
21 products.

22 (4) The system shall be capable of providing the retail distributor
23 with an immediate real-time alert any time any provision of this
24 section is being violated by a proposed sale.

25 (5) Neither the department nor any state agency shall bear any
26 cost for the development, installation, or maintenance of the
27 system.

28 (6) The MOU shall state that no party to the MOU nor any entity
29 under contract to provide the electronic authorization and
30 monitoring system shall be authorized to use the information
31 contained in the system for any purpose other than those set forth
32 in this section, the federal Combat Methamphetamine Epidemic
33 Act of 2005, or any regulation adopted pursuant to this section or
34 that act. However, the system operator shall be authorized to
35 analyze the information for the sole purpose of assessing and
36 improving the performance and efficacy of the system. In addition,
37 the MOU shall require that any retail distributor's access to the
38 electronic authorization and monitoring system's database is
39 limited solely to records of sales transactions made by that retail
40 distributor, which access shall be solely for purposes of complying

1 with the federal Combat Methamphetamine Epidemic Act of 2005
2 or this section, or to respond to a duly authorized law enforcement
3 request or court order for information collected under that act or
4 this section.

5 (7) The system's security program shall comply with the security
6 standards for the Criminal Justice Information System of the
7 Federal Bureau of Investigation and may be audited once a year
8 by the department.

9 ~~(8) A retail distributor's use of the system.~~ *The use of the system*
10 *by a retail distributor or vendor of the NPLEx system shall be*
11 *subject to Section 56.101 of the Civil Code. A retail distributor or*
12 *any vendor of the NPLEx system holding the NPLEx data shall not*
13 *maintain any records collected under this system for longer than*
14 *two years, or as otherwise required by the federal Combat*
15 *Methamphetamine Epidemic Act of 2005 and shall be destroyed*
16 *pursuant to Section 1798.81 of the Civil Code.*

17 (9) Law enforcement access to the system shall be recorded by
18 means of a unique access code for each individual accessing the
19 system. Each user's history shall be maintained and may be audited
20 by the department.

21 (10) The department may submit recommendations to NADDI
22 regarding system changes to assist in identifying false identification
23 cards.

24 *(11) Any disputes relating to compliance with this section arising*
25 *against a vendor of the NPLEx system shall be subject to a court*
26 *of competent jurisdiction in California and shall be governed by*
27 *California law.*

28 (e) The State Board of Equalization shall notify all retailers
29 about the requirement to submit transactions to NPLEx no later
30 than April 1, ~~2012~~ 2013.

31 (f) This section shall not apply to a health care practitioner with
32 prescriptive authority who is currently licensed in this state.

33 (g) (1) A first violation of this section is a misdemeanor.

34 (2) Any person who has previously been convicted of a violation
35 of this section shall, upon a subsequent conviction thereof, be
36 punished by imprisonment in a county jail not exceeding one year,
37 by a fine not exceeding ten thousand dollars (\$10,000), or by both
38 the fine and imprisonment.

39 (h) For the purposes of this section, the following terms have
40 the following meanings:

1 (1) “Department” means the Department of Justice.

2 (2) “Drug store” is any entity described in Code 5912 of the
3 Standard Industrial Classification (SIC) Manual published by the
4 United States Office of Management and Budget, 1987 edition.

5 (3) “General merchandise store” is any entity described in Codes
6 5311 to 5399, inclusive, and Code 5499 of the Standard Industrial
7 Classification (SIC) Manual published by the United States Office
8 of Management and Budget, 1987 edition.

9 (4) “Grocery store” is any entity described in Code 5411 of the
10 Standard Industrial Classification (SIC) Manual published by the
11 United States Office of Management and Budget, 1987 edition.

12 (5) “Retail distributor” means a grocery store, general
13 merchandise store, drugstore, or other related entity, the activities
14 of which, as a distributor of ephedrine, pseudoephedrine,
15 norpseudoephedrine, or phenylpropanolamine products, are limited
16 exclusively to the sale of ephedrine, pseudoephedrine,
17 norpseudoephedrine, or phenylpropanolamine products for personal
18 use both in number of sales and volume of sales, either directly to
19 walk-in customers or in face-to-face transactions by direct sales.
20 “Retail distributor” includes an entity that makes a direct sale, but
21 does not include the parent company of that entity if the company
22 is not involved in direct sales regulated by this article.

23 (6) “Sale for personal use” means the sale in a single transaction
24 to an individual customer for a legitimate medical use of a product
25 containing ephedrine, pseudoephedrine, norpseudoephedrine, or
26 phenylpropanolamine in amounts at or below that specified in
27 subdivision (a). “Sale for personal use” also includes the sale of
28 those products to employers to be dispensed to employees from
29 first aid kits or medicine chests.

30 (i) It is the intent of the Legislature that this section shall
31 preempt all local ordinances or regulations governing the sale by
32 a retail distributor of over-the-counter products containing
33 ephedrine, pseudoephedrine, norpseudoephedrine, or
34 phenylpropanolamine.

35 (j) This section shall remain in effect only until January 1, 2018,
36 and as of that date is repealed, unless a later enacted statute, that
37 is enacted before January 1, 2018, deletes or extends that date.

38 ~~SEC. 4. Sections 1.5 and 2.5 of this bill incorporate~~
39 ~~amendments to Section 11100 of the Health and Safety Code~~
40 ~~proposed by both this bill and Assembly Bill 109, which has been~~

chaptered but is not operative. Sections 1.5 and 2.5 shall become operative only if (1) this bill is enacted and becomes effective on or before January 1, 2012, (2) this bill amends Section 11100 of the Health and Safety Code, and (3) Assembly Bill 109 becomes operative, in which case Section 11100 of the Health and Safety Code, as amended by Sections 1 and 2 of this bill, shall remain operative only until the operative date of Assembly Bill 109, at which time Sections 1.5 and 2.5 of this bill shall become operative.

~~SEC. 5.~~

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.